

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109

**COMMENTS OF
THE UNITED STATES TELECOM ASSOCIATION**

I. INTRODUCTION

USTelecom is pleased to comment on the Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking seeking comment on proposals to modernize the Commission's universal service fund and intercarrier compensation system.¹ Reform of

¹ See *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2011) (*USF/ICC Transformation NPRM*).

these two mechanisms is long overdue, and USTelecom appreciates the Commission's commitment to reform and endorses the Commission's timetable for decision.²

Under current conditions, it is not financially viable for providers in some areas of the country to build network facilities or to operate them without support. The universal service fund and intercarrier compensation regime today support the construction and operation of networks on which consumers in high-cost areas depend. As the representative of providers entrusted with the historic responsibilities and burdens of being the carrier of last resort, USTelecom urges the Commission to adopt reforms that set transitions from today to a Connect America Fund that matches obligations with funding support, that better targets support and that will allow today's carriers of last resort to plan for the evolution to a broadband world while serving consumers in high-cost areas without interruption of service.

USTelecom notes the importance of developing industry consensus views on reform and on the nuts-and-bolts of how to implement reform plans in a way that will maximize the overall consumer benefits of a transition to a broadband infrastructure in high-cost areas of the country while sustaining high-quality, reliable voice service for all Americans.

² See *Making Universal Service and Intercarrier Compensation Reform Happen*, posting by Julius Genachowski, Michael Copps, Robert McDowell, Mignon Clyburn, Meredith Baker – FCC Commissioners to the Official Blog of the Federal Communications Commission (Mar. 15, 2011), <http://reboot.fcc.gov/blog?entryId=1335527>.

II. PROMPT RESOLUTION OF THE INTERCARRIER COMPENSATION AND UNIVERSAL SERVICE MODERNIZATION WILL REMOVE CLOUDS ON NETWORK INVESTMENT

Intercarrier compensation and high-cost universal service funding represent significant revenue flows for companies building and operating networks in the most economically challenging areas. Modernized support will be necessary to build out and operate broadband networks where they do not exist today, as well as to maintain and operate existing networks in areas that are high-cost to serve. That support must be matched to and sufficient to fund whatever obligations are placed on the provider that elects to participate.

These mechanisms constitute important support for the facilities over which both broadband and voice services are currently provided in the most economically challenging areas of our nation. However, neither mechanism is explicitly focused on supporting the construction and operation of broadband networks. In addition, intercarrier compensation support is eroding rapidly from competition and arbitrage and pressure continues to mount on universal service funding. USTelecom commends the Commission for recognizing that a credible strategy for ensuring broadband and voice opportunities reach throughout the nation depends on the prompt reform of the intercarrier compensation and universal service regimes. Intercarrier compensation reform must be accomplished by providing opportunities for carriers to replace lost revenues in order to allow the continuation of support for networks, particularly those in high-cost rural areas.

While some may discount the impact of current regulations and regulatory certainty on future investment, provision of broadband and voice services requires a high

level of long-term fixed-cost investment. Investors will be unwilling to fund such investment without an expectation of an opportunity for a reasonable future return. Throughout the modernization path, there must be sufficient clarity and predictability for network providers to plan and to obtain financing for continued investment in the networks that service high-cost areas. USTelecom appreciates the Commissioners' commitment to prompt action that will enhance the atmosphere for network investment.

A. Intercarrier Compensation Reform

The uncertainty and declining support for the network resulting from the current archaic system by which companies pay each other for handling calls is a substantial hurdle to maintaining and increasing broadband investment. By pricing similar functions at very different levels depending on artificial regulatory categories, it distorts competition and investment while promoting arbitrage and sometimes outright fraud. And by failing to account for rapidly declining access revenue support for carrier of last resort service in high-cost areas, it undermines the provision of service in these areas and efforts to build and operate the modern broadband networks needed by the public. The Commission needs to rationalize intercarrier compensation rates and immediately shore up the system by acting to reduce arbitrage. In particular, the Commission should immediately implement solutions to reduce phantom traffic and access pumping, practices that drain money away from support of networks and the consumers that depend on them and resolve the continuing controversy over charges due on the termination of VoIP-originated calls on the public network.

The intercarrier compensation system contains substantial support for building and operation of networks in high-cost areas. That support is quickly eroding due to

changes in the market for voice services and because of arbitrage enabled by the current intercarrier compensation system and the absence of rules to end it. Significant levels of regulatory arbitrage are an indictment of a poorly constructed or enforced regulatory regime and an unproductive use of financial and intellectual capital. It results in a great deal of resources of both communications providers and state regulators and courts being devoted to brokering and litigating disputes stemming from this archaic system.

Arbitrage creates competitive distortions, regulatory uncertainty and disincentives to invest in network facilities. Arbitrage, such as phantom traffic and access stimulation, is increasing and undermines a key revenue stream used to support the carrier of last resort obligation and promote network stability to advance broadband deployment. Until targeted universal service support provides sufficient explicit funding for networks in high-cost areas, any mandated rate reductions must be coupled with a reasonable opportunity for providers to replace the revenues lost as a result through a combination of increased retail rate flexibility and a supplement fund.

B. Universal Service Reform

Building and operating communications facilities in low-density areas of our nation is expensive. A modernized universal service fund to support explicitly broadband and voice services will play an essential role in ensuring that broadband networks are available in high-cost areas and affordable. While universal service funding must transition to include broadband, and while much of the current high-cost universal service funding goes for facilities that are jointly used for voice and broadband services, modifying the current mechanisms must be done with great care. Careful transitions to a clear end point will be essential for the long-term financing required for network

investment. As carriers of last resort, USTelecom members must maintain quality legacy networks during this transition to ensure that consumers in high-cost areas have uninterrupted access to communications networks. Although universal service funding should evolve from supporting voice to supporting broadband and voice services, this reform cannot be done overnight and it should not be done by placing unfunded or underfunded mandates for broadband buildout on carriers. As the Commission has noted, maximizing the tax efficiency of broadband support is likely to prove an important aspect of matching broadband obligations with support.

Better targeting support to areas that are more granular than current study areas is an important focus of reform. The current study area approach can often paint with too broad a brush, and significantly hinder the ability of some companies to have access to support necessary to build and operate networks in high-cost areas. Any implicit subsidies that used to flow under statewide and study area averaging are no longer available given current competitive conditions.

III. CONCLUSION

The universal service fund and intercarrier compensation represent significant revenue flows for companies constructing and operating networks in the high-cost areas of our nation. USTelecom looks forward to continuing to assist the Commission in promptly developing a modernized plan for moving towards explicit and better targeted support matched to the obligation to construct and operate broadband networks and provide voice services that will provide consumers with broadband service throughout the country while preserving the incentives and abilities of current providers to continue investing in delivering service and meeting carrier of last resort obligations.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION

A handwritten signature in blue ink, appearing to read "Jonathan Banks", is written above a horizontal line.

By: _____

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